

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION

<p>In re:</p> <p>Porter Clark, Jr.</p> <p>Debtor</p> <p>Wilmington Savings Fund Society, FSB, not in its individual capacity but solely in its capacity as Owner Trustee for Ocwen Loan Acquisition Trust 2024-HB1</p> <p>Movant</p> <p>v.</p> <p>Porter Clark, Jr.</p> <p>Debtor/Respondent</p> <p>KENNETH E. WEST, Esquire</p> <p>Trustee/Respondent</p>	<p>Bankruptcy No. 22-10376-amc</p> <p>Chapter 13</p> <p>Hearing Date: June 20, 2024 Hearing Time: 11:00 A.M. Location: Robert N.C. Nix Sr. Federal Courthouse 900 Market Street, Suite 202 Philadelphia, PA 19107</p>
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MOTION OF Wilmington Savings Fund Society, FSB, not in its individual capacity but solely in its capacity as Owner Trustee for Ocwen Loan Acquisition Trust 2024-HB1 FOR RELIEF FROM THE AUTOMATIC STAY TO PERMIT Wilmington Savings Fund Society, FSB, not in its individual capacity but solely in its capacity as Owner Trustee for Ocwen Loan Acquisition Trust 2024-HB1 TO FORECLOSE ON 8249 TEMPLE ROAD PHILADELPHIA, PA 19150

Secured Creditor, Wilmington Savings Fund Society, FSB, not in its individual capacity but solely in its capacity as Owner Trustee for Ocwen Loan Acquisition Trust 2024-HB1, by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor(s), Porter Clark, Jr., filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on February 16, 2022.
2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334,

11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.

3. On December 3, 2010, Porter Clark and Mary Clark executed and delivered a CLOSED-END FIXED RATE NOTE (HOME EQUITY CONVERSION) (“Note”) and CLOSED-END FIXED RATE NOTE HOME EQUITY CONVERSION SECOND MORTGAGE (“Mortgage”) securing payment of the Note up to a maximum principal in the amount of \$202,500.00 to Wells Fargo Bank, N.A. A true and correct copy of the Note is attached hereto as Exhibit “A.”
4. The Mortgage was recorded on December 8, 2010, in Document ID 52290983 of the Public Records of Philadelphia County, PA. A true and correct copy of the Mortgage is attached hereto as Exhibit “B.”
5. The Mortgage was secured as a lien against the Property located at 8249 Temple Road, Philadelphia PA 19150, (“the Property”).
6. The loan was lastly assigned to Wilmington Savings Fund Society, FSB, not in its individual capacity but solely in its capacity as Owner Trustee for Ocwen Loan Acquisition Trust 2024-HB1 and same was recorded with the Philadelphia County Recorder of Deeds on March 21, 2024, as Document ID 54281273. A true and correct copy of the Assignment of Mortgage is attached hereto as Exhibit “C.”
7. Based upon the Debtor(s)’ Amended Modified Chapter 13 Plan (Docket No. 40), the Trustee intends to cure Secured Creditor’s pre-petition arrearages within the Chapter 13 Plan. A true and correct copy of the Amended Modified Chapter 13 Plan is attached hereto as Exhibit “D.”

8. Upon information and belief, Mary Clark, departed this life on December 27, 2010.

Verification of borrower's death is attached as Exhibit "E".

9. Debtor has failed to make the payment of Corporate Advance Hazard Insurance, which came due on November 16, 2023, in the amount of \$1,743.00.

10. As of May 8, 2024, the current unpaid principal balance due under the loan documents is approximately \$121,205.66. Movant's total claim amount, itemized below, is approximately \$241,136.47. See Exhibit "F."

Principal Advances	\$121,205.66
Interest	\$103,359.69
MIP	\$13,732.20
Corporate Advances	\$2,513.00
Intra Month Per Diem	\$325.92
Total to Payoff	\$241,136.47

11. According to the Debtor(s)' schedules, the value of the property is \$177,920.00. A true and accurate copy of the Debtor(s)' Schedule A/B is attached hereto as Exhibit "G."

12. Under Section 362(d)(1) of the Code, the Court shall grant relief from the automatic stay for "cause," which includes a lack of adequate protection of an interest in property. Sufficient "cause" for relief from the stay under Section 362(d)(1) is established where a debtor has failed to make installment payments or payments due under a court-approved plan, on a secured debt, or where the Debtor(s) have no assets or equity in the Mortgaged Property.

13. As set forth herein, Debtor has defaulted on his secured obligation as he has failed to make the payment of Corporate Advance Hazard Insurance in the amount of \$1,743.00, which came due on November 16, 2023.

14. As a result, cause exists pursuant to 11 U.S.C. § 362(d) of the Code for this Honorable

Court to grant relief from the automatic stay to allow Secured Creditor, its successor and/or assignees to pursue its state court remedies, including the filing of a foreclosure action.

15. Additionally, once the stay is terminated, the Debtor(s) will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

WHEREFORE, Secured Creditor, prays this Honorable Court enters an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Wilmington Savings Fund Society, FSB, not in its individual capacity but solely in its capacity as Owner Trustee for Ocwen Loan Acquisition Trust 2024-HB1 to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), and for any such further relief as this Honorable Court deems just and appropriate.

Date: May 21, 2024

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